

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 193, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-2-6-18 IS ADDED TO THE INDIANA CODE
- 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2006]: **Sec. 18. (a) As used in this section, "institute"**
- 6 **means the Indiana criminal justice institute established by section**
- 7 **3 of this chapter.**
- 8 **(b) The institute shall adopt:**
- 9 **(1) guidelines; and**
- 10 **(2) a reporting form or a specified electronic format, or both;**
- 11 **for the report of methamphetamine abuse by a law enforcement**
- 12 **agency under IC 5-2-16.**
- 13 **(c) The guidelines adopted under this section must require a law**
- 14 **enforcement agency to report the existence of methamphetamine**
- 15 **abuse to the institute on the form or in the specified electronic**
- 16 **format adopted by the institute.**
- 17 **(d) The guidelines adopted under this section:**
- 18 **(1) may incorporate a recommendation of the**
- 19 **methamphetamine abuse task force (IC 5-2-14) that the**
- 20 **institute determines to be relevant;**
- 21 **(2) may require the institute to report the information**

1 concerning methamphetamine abuse to one (1) or more
2 additional agencies or organizations;

3 (3) must require the institute to maintain reports filed under
4 IC 5-2-16 in a manner permitting an accurate assessment of
5 methamphetamine abuse in Indiana; and

6 (4) must require a law enforcement agency to report any other
7 information that the institute determines to be relevant."

8 Page 1, between lines 7 and 8, begin a new paragraph and insert:

9 "SECTION 3. IC 5-2-16 IS ADDED TO THE INDIANA CODE AS
10 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2006]:

12 **Chapter 16. Methamphetamine Abuse Reporting**

13 **Sec. 1. As used in this chapter, "law enforcement agency" has**
14 **the meaning set forth in IC 10-11-8-2.**

15 **Sec. 2. As used in this chapter, "methamphetamine abuse"**
16 **means the:**

17 (1) use;

18 (2) sale;

19 (3) manufacture;

20 (4) transport; or

21 (5) delivery;

22 of methamphetamine or of a methamphetamine precursor, if the
23 precursor is being used, sold, manufactured, transported, or
24 delivered to facilitate the manufacture of methamphetamine.

25 **Sec. 3. A law enforcement agency that discovers evidence of**
26 **methamphetamine abuse shall report the methamphetamine abuse**
27 **to the criminal justice institute on a form and in the manner**
28 **prescribed by guidelines adopted by the criminal justice institute**
29 **under IC 5-2-4-18.**

30 SECTION 4. IC 11-12-3.7-3 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. As used in this
32 chapter, "drug dealing offense" means one (1) or more of the following
33 offenses:

34 (1) Dealing in cocaine or a narcotic drug or methamphetamine (IC
35 35-48-4-1), unless the person received only minimal consideration
36 as a result of the drug transaction.

37 (2) Dealing in methamphetamine (IC 35-48-4-1.1), unless the
38 person received only minimal consideration as a result of the

drug transaction.

(3) Dealing in a schedule I, II, III, IV, or V controlled substance (IC 35-48-4-2 through IC 35-48-4-4), unless the person received only minimal consideration as a result of the drug transaction.

~~(3)~~ (4) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10), unless the person received only minimal consideration as a result of the drug transaction.

SECTION 5. IC 16-31-3-14, AS AMENDED BY P.L.22-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) A person holding a certificate issued under this article must comply with the applicable standards and rules established under this article. A certificate holder is subject to disciplinary sanctions under subsection (b) if the ~~state emergency management agency~~ **department of homeland security** determines that the certificate holder:

(1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a certificate, including cheating on a certification examination;

(2) engaged in fraud or material deception in the course of professional services or activities;

(3) advertised services or goods in a false or misleading manner;

(4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses required under this article or rules adopted under this article;

(5) is convicted of a crime, if the act that resulted in the conviction has a direct bearing on determining if the certificate holder should be entrusted to provide emergency medical services;

(6) is convicted of violating IC 9-19-14.5;

(7) fails to comply and maintain compliance with or violates any applicable provision, standard, or other requirement of this article or rules adopted under this article;

(8) continues to practice if the certificate holder becomes unfit to practice due to:

(A) professional incompetence that includes the undertaking of professional activities that the certificate holder is not qualified by training or experience to undertake;

(B) failure to keep abreast of current professional theory or

- 1 practice;
- 2 (C) physical or mental disability; or
- 3 (D) addiction to, abuse of, or dependency on alcohol or other
- 4 drugs that endanger the public by impairing the certificate
- 5 holder's ability to practice safely;
- 6 (9) engages in a course of lewd or immoral conduct in connection
- 7 with the delivery of services to the public;
- 8 (10) allows the certificate holder's name or a certificate issued
- 9 under this article to be used in connection with a person who
- 10 renders services beyond the scope of that person's training,
- 11 experience, or competence;
- 12 (11) is subjected to disciplinary action in another state or
- 13 jurisdiction on grounds similar to those contained in this chapter.
- 14 For purposes of this subdivision, a certified copy of a record of
- 15 disciplinary action constitutes prima facie evidence of a
- 16 disciplinary action in another jurisdiction;
- 17 (12) assists another person in committing an act that would
- 18 constitute a ground for disciplinary sanction under this chapter; or
- 19 (13) allows a certificate issued by the commission to be:
- 20 (A) used by another person; or
- 21 (B) displayed to the public when the certificate is expired,
- 22 inactive, invalid, revoked, or suspended.
- 23 (b) The ~~state emergency management agency~~ **department of**
- 24 **homeland security** may issue an order under IC 4-21.5-3-6 to impose
- 25 one (1) or more of the following sanctions if the ~~state emergency~~
- 26 ~~management agency~~ **department of homeland security** determines
- 27 that a certificate holder is subject to disciplinary sanctions under
- 28 subsection (a):
- 29 (1) Revocation of a certificate holder's certificate for a period not
- 30 to exceed seven (7) years.
- 31 (2) Suspension of a certificate holder's certificate for a period not
- 32 to exceed seven (7) years.
- 33 (3) Censure of a certificate holder.
- 34 (4) Issuance of a letter of reprimand.
- 35 (5) Assessment of a civil penalty against the certificate holder in
- 36 accordance with the following:
- 37 (A) The civil penalty may not exceed five hundred dollars
- 38 (\$500) per day per violation.

- 1 (B) If the certificate holder fails to pay the civil penalty within
 2 the time specified by the ~~state emergency management agency;~~
 3 **department of homeland security**, the ~~state emergency~~
 4 ~~management agency~~ **department of homeland security** may
 5 suspend the certificate holder's certificate without additional
 6 proceedings.
- 7 (6) Placement of a certificate holder on probation status and
 8 requirement of the certificate holder to:
- 9 (A) report regularly to the ~~state emergency management~~
 10 ~~agency~~ **department of homeland security** upon the matters
 11 that are the basis of probation;
- 12 (B) limit practice to those areas prescribed by the ~~state~~
 13 ~~emergency management agency;~~ **department of homeland**
 14 **security**;
- 15 (C) continue or renew professional education approved by the
 16 ~~state emergency management agency~~ **department of**
 17 **homeland security** until a satisfactory degree of skill has been
 18 attained in those areas that are the basis of the probation; or
- 19 (D) perform or refrain from performing any acts, including
 20 community restitution or service without compensation, that
 21 the ~~state emergency management agency~~ **department of**
 22 **homeland security** considers appropriate to the public interest
 23 or to the rehabilitation or treatment of the certificate holder.
- 24 The ~~state emergency management agency~~ **department of**
 25 **homeland security** may withdraw or modify this probation if the
 26 ~~state emergency management agency~~ **department of homeland**
 27 **security** finds after a hearing that the deficiency that required
 28 disciplinary action is remedied or that changed circumstances
 29 warrant a modification of the order.
- 30 (c) If an applicant or a certificate holder has engaged in or
 31 knowingly cooperated in fraud or material deception to obtain a
 32 certificate, including cheating on the certification examination, the ~~state~~
 33 ~~emergency management agency~~ **department of homeland security**
 34 may rescind the certificate if it has been granted, void the examination
 35 or other fraudulent or deceptive material, and prohibit the applicant
 36 from reapplying for the certificate for a length of time established by
 37 the ~~state emergency management agency.~~ **department of homeland**
 38 **security.**

(d) The ~~state emergency management agency~~ **department of homeland security** may deny certification to an applicant who would be subject to disciplinary sanctions under subsection (b) if that person were a certificate holder, has had disciplinary action taken against the applicant or the applicant's certificate to practice in another state or jurisdiction, or has practiced without a certificate in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action.

(e) The ~~state emergency management agency~~ **department of homeland security** may order a certificate holder to submit to a reasonable physical or mental examination if the certificate holder's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding. Failure to comply with a ~~state emergency management agency~~ **department of homeland security** order to submit to a physical or mental examination makes a certificate holder liable to temporary suspension under subsection (i).

(f) Except as provided under subsection (a), subsection (g), and section 14.5 of this chapter, a certificate may not be denied, revoked, or suspended because the applicant or certificate holder has been convicted of an offense. The acts from which the applicant's or certificate holder's conviction resulted may be considered as to whether the applicant or certificate holder should be entrusted to serve the public in a specific capacity.

(g) The ~~state emergency management agency~~ **department of homeland security** may deny, suspend, or revoke a certificate issued under this article if the individual who holds or is applying for the certificate is convicted of any of the following:

(1) Possession of cocaine ~~or~~ a narcotic drug ~~or methamphetamine~~ under IC 35-48-4-6.

(2) **Possession of methamphetamine under IC 35-48-4-6.1.**

(3) Possession of a controlled substance under IC 35-48-4-7(a).

~~(3)~~ (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).

~~(4)~~ (5) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).

~~(5)~~ (6) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).

~~(6)~~ (7) Possession of paraphernalia as a Class D felony under

- 1 IC 35-48-4-8.3(b).
- 2 ~~(7)~~ **(8)** Possession of marijuana, hash oil, or hashish as a Class D
- 3 felony under IC 35-48-4-11.
- 4 ~~(8)~~ **(9)** Maintaining a common nuisance under IC 35-48-4-13.
- 5 ~~(9)~~ **(10)** An offense relating to registration, labeling, and
- 6 prescription forms under IC 35-48-4-14.
- 7 ~~(10)~~ **(11)** Conspiracy under IC 35-41-5-2 to commit an offense
- 8 listed in subdivisions (1) through ~~(9)~~ **(10)**.
- 9 ~~(11)~~ **(12)** Attempt under IC 35-41-5-1 to commit an offense listed
- 10 in subdivisions (1) through (10).
- 11 ~~(12)~~ **(13)** An offense in any other jurisdiction in which the
- 12 elements of the offense for which the conviction was entered are
- 13 substantially similar to the elements of an offense described by
- 14 subdivisions (1) through ~~(11)~~ **(12)**.
- 15 (h) A decision of the ~~state emergency management agency~~
- 16 **department of homeland security** under subsections (b) through (g)
- 17 may be appealed to the commission under IC 4-21.5-3-7.
- 18 (i) The ~~state emergency management agency~~ **department of**
- 19 **homeland security** may temporarily suspend a certificate holder's
- 20 certificate under IC 4-21.5-4 before a final adjudication or during the
- 21 appeals process if the ~~state emergency management agency~~
- 22 **department of homeland security** finds that a certificate holder would
- 23 represent a clear and immediate danger to the public's health, safety, or
- 24 property if the certificate holder were allowed to continue to practice.
- 25 (j) On receipt of a complaint or information alleging that a person
- 26 certified under this chapter or IC 16-31-3.5 has engaged in or is
- 27 engaging in a practice that is subject to disciplinary sanctions under this
- 28 chapter, the ~~state emergency management agency~~ **department of**
- 29 **homeland security** must initiate an investigation against the person.
- 30 (k) The ~~state emergency management agency~~ **department of**
- 31 **homeland security** shall conduct a factfinding investigation as the ~~state~~
- 32 ~~emergency management agency~~ **department of homeland security**
- 33 considers proper in relation to the complaint.
- 34 (l) The ~~state emergency management agency~~ **department of**
- 35 **homeland security** may reinstate a certificate that has been suspended
- 36 under this section if the ~~state emergency management agency~~
- 37 **department of homeland security** is satisfied that the applicant is able
- 38 to practice with reasonable skill, competency, and safety to the public.

1 As a condition of reinstatement, the ~~state emergency management~~
 2 ~~agency~~ **department of homeland security** may impose disciplinary or
 3 corrective measures authorized under this chapter.

4 (m) The ~~state emergency management agency~~ **department of**
 5 **homeland security** may not reinstate a certificate that has been revoked
 6 under this chapter.

7 (n) The ~~state emergency management agency~~ **department of**
 8 **homeland security** must be consistent in the application of sanctions
 9 authorized in this chapter. Significant departures from prior decisions
 10 involving similar conduct must be explained in the ~~state emergency~~
 11 ~~management agency's~~ **department of homeland security's** findings or
 12 orders.

13 (o) A certificate holder may not surrender the certificate holder's
 14 certificate without the written approval of the ~~state emergency~~
 15 ~~management agency;~~ **department of homeland security**, and the ~~state~~
 16 ~~emergency management agency~~ **department of homeland security**
 17 may impose any conditions appropriate to the surrender or
 18 reinstatement of a surrendered certificate.

19 (p) For purposes of this section, "certificate holder" means a person
 20 who holds:

- 21 (1) an unlimited certificate;
- 22 (2) a limited or probationary certificate; or
- 23 (3) an inactive certificate.

24 SECTION 6. IC 16-31-3-14.5 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14.5. The ~~state~~
 26 ~~emergency management agency~~ **department of homeland security**
 27 may issue an order under IC 4-21.5-3-6 to deny an applicant's request
 28 for certification or permanently revoke a certificate under procedures
 29 provided by section 14 of this chapter if the individual who holds the
 30 certificate issued under this title is convicted of any of the following:

- 31 (1) Dealing in or manufacturing cocaine ~~or~~ a narcotic drug ~~or~~
 32 ~~methamphetamine~~ under IC 35-48-4-1.
- 33 (2) **Dealing in or manufacturing methamphetamine under**
 34 **IC 35-48-4-1.1.**
- 35 (3) Dealing in a schedule I, II, or III controlled substance under
 36 IC 35-48-4-2.
- 37 ~~(3)~~ (4) Dealing in a schedule IV controlled substance under
 38 IC 35-48-4-3.

- 1 ~~(4)~~ **(5)** Dealing in a schedule V controlled substance under
- 2 IC 35-48-4-4.
- 3 ~~(5)~~ **(6)** Dealing in a substance represented to be a controlled
- 4 substance under IC 35-48-4-4.5.
- 5 ~~(6)~~ **(7)** Knowingly or intentionally manufacturing, advertising,
- 6 distributing, or possessing with intent to manufacture, advertise,
- 7 or distribute a substance represented to be a controlled substance
- 8 under IC 35-48-4-4.6.
- 9 ~~(7)~~ **(8)** Dealing in a counterfeit substance under IC 35-48-4-5.
- 10 ~~(8)~~ **(9)** Dealing in marijuana, hash oil, or hashish under
- 11 IC 35-48-4-10(b).
- 12 ~~(9)~~ **(10)** Conspiracy under IC 35-41-5-2 to commit an offense
- 13 listed in subdivisions (1) through ~~(8)~~: **(9)**.
- 14 ~~(10)~~ **(11)** Attempt under IC 35-41-5-1 to commit an offense listed
- 15 in subdivisions (1) through ~~(8)~~: **(9)**.
- 16 ~~(11)~~ **(12)** A crime of violence (as defined in IC 35-50-1-2(a)).
- 17 ~~(12)~~ **(13)** An offense in any other jurisdiction in which the
- 18 elements of the offense for which the conviction was entered are
- 19 substantially similar to the elements of an offense described under
- 20 subdivisions (1) through ~~(11)~~: **(12)**.

21 SECTION 7. IC 20-28-5-8, AS ADDED BY P.L.246-2005,
 22 SECTION 159, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section applies when
 24 a prosecuting attorney knows that a licensed employee of a public
 25 school or a nonpublic school has been convicted of an offense listed in
 26 subsection (c). The prosecuting attorney shall immediately give written
 27 notice of the conviction to the following:

- 28 (1) The state superintendent.
- 29 (2) Except as provided in subdivision (3), the superintendent of
- 30 the school corporation that employs the licensed employee or the
- 31 equivalent authority if a nonpublic school employs the licensed
- 32 employee.
- 33 (3) The presiding officer of the governing body of the school
- 34 corporation that employs the licensed employee, if the convicted
- 35 licensed employee is the superintendent of the school corporation.
- 36 (b) The superintendent of a school corporation, presiding officer of
- 37 the governing body, or equivalent authority for a nonpublic school shall
- 38 immediately notify the state superintendent when the individual knows

1 that a current or former licensed employee of the public school or
 2 nonpublic school has been convicted of an offense listed in subsection
 3 (c).

4 (c) The department, after holding a hearing on the matter, shall
 5 permanently revoke the license of a person who is known by the
 6 department to have been convicted of any of the following felonies:

7 (1) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 8 (18) years of age.

9 (2) Criminal confinement (IC 35-42-3-3), if the victim is less than
 10 eighteen (18) years of age.

11 (3) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)
 12 years of age.

13 (4) Criminal deviate conduct (IC 35-42-4-2), if the victim is less
 14 than eighteen (18) years of age.

15 (5) Child molesting (IC 35-42-4-3).

16 (6) Child exploitation (IC 35-42-4-4(b)).

17 (7) Vicarious sexual gratification (IC 35-42-4-5).

18 (8) Child solicitation (IC 35-42-4-6).

19 (9) Child seduction (IC 35-42-4-7).

20 (10) Sexual misconduct with a minor (IC 35-42-4-9).

21 (11) Incest (IC 35-46-1-3), if the victim is less than eighteen (18)
 22 years of age.

23 (12) Dealing in or manufacturing cocaine ~~or~~ a narcotic drug ~~or~~
 24 methamphetamine (IC 35-48-4-1).

25 **(13) Dealing in or manufacturing methamphetamine (IC**
 26 **35-48-4-1.1).**

27 **(14)** Dealing in a schedule I, II, or III controlled substance (IC
 28 35-48-4-2).

29 ~~(14)~~ **(15)** Dealing in a schedule IV controlled substance (IC
 30 35-48-4-3).

31 ~~(15)~~ **(16)** Dealing in a schedule V controlled substance (IC
 32 35-48-4-4).

33 ~~(16)~~ **(17)** Dealing in a counterfeit substance (IC 35-48-4-5).

34 ~~(17)~~ **(18)** Dealing in marijuana, hash oil, or hashish (IC
 35 35-48-4-10(b)).

36 (d) A license may be suspended by the state superintendent as
 37 specified in IC 20-28-7-7.

38 SECTION 8. IC 22-15-5-16 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) A practitioner
2 shall comply with the standards established under this licensing
3 program. A practitioner is subject to the exercise of the disciplinary
4 sanctions under subsection (b) if the department finds that a practitioner
5 has:

6 (1) engaged in or knowingly cooperated in fraud or material
7 deception in order to obtain a license to practice, including
8 cheating on a licensing examination;

9 (2) engaged in fraud or material deception in the course of
10 professional services or activities;

11 (3) advertised services or goods in a false or misleading manner;

12 (4) falsified or knowingly allowed another person to falsify
13 attendance records or certificates of completion of continuing
14 education courses provided under this chapter;

15 (5) been convicted of a crime that has a direct bearing on the
16 practitioner's ability to continue to practice competently;

17 (6) knowingly violated a state statute or rule or federal statute or
18 regulation regulating the profession for which the practitioner is
19 licensed;

20 (7) continued to practice although the practitioner has become
21 unfit to practice due to:

22 (A) professional incompetence;

23 (B) failure to keep abreast of current professional theory or
24 practice;

25 (C) physical or mental disability; or

26 (D) addiction to, abuse of, or severe dependency on alcohol or
27 other drugs that endanger the public by impairing a
28 practitioner's ability to practice safely;

29 (8) engaged in a course of lewd or immoral conduct in connection
30 with the delivery of services to the public;

31 (9) allowed the practitioner's name or a license issued under this
32 chapter to be used in connection with an individual or business
33 who renders services beyond the scope of that individual's or
34 business's training, experience, or competence;

35 (10) had disciplinary action taken against the practitioner or the
36 practitioner's license to practice in another state or jurisdiction on
37 grounds similar to those under this chapter;

38 (11) assisted another person in committing an act that would

1 constitute a ground for disciplinary sanction under this chapter; or

2 (12) allowed a license issued by the department to be:

3 (A) used by another person; or

4 (B) displayed to the public when the license has expired, is
5 inactive, is invalid, or has been revoked or suspended.

6 For purposes of subdivision (10), a certified copy of a record of
7 disciplinary action constitutes prima facie evidence of a disciplinary
8 action in another jurisdiction.

9 (b) The department may impose one (1) or more of the following
10 sanctions if the department finds that a practitioner is subject to
11 disciplinary sanctions under subsection (a):

12 (1) Permanent revocation of a practitioner's license.

13 (2) Suspension of a practitioner's license.

14 (3) Censure of a practitioner.

15 (4) Issuance of a letter of reprimand.

16 (5) Assess a civil penalty against the practitioner in accordance
17 with the following:

18 (A) The civil penalty may not be more than one thousand
19 dollars (\$1,000) for each violation listed in subsection (a),
20 except for a finding of incompetency due to a physical or
21 mental disability.

22 (B) When imposing a civil penalty, the department shall
23 consider a practitioner's ability to pay the amount assessed. If
24 the practitioner fails to pay the civil penalty within the time
25 specified by the department, the department may suspend the
26 practitioner's license without additional proceedings. However,
27 a suspension may not be imposed if the sole basis for the
28 suspension is the practitioner's inability to pay a civil penalty.

29 (6) Place a practitioner on probation status and require the
30 practitioner to:

31 (A) report regularly to the department upon the matters that are
32 the basis of probation;

33 (B) limit practice to those areas prescribed by the department;

34 (C) continue or renew professional education approved by the
35 department until a satisfactory degree of skill has been attained
36 in those areas that are the basis of the probation; or

37 (D) perform or refrain from performing any acts, including
38 community restitution or service without compensation, that

1 the department considers appropriate to the public interest or
2 to the rehabilitation or treatment of the practitioner.

3 The department may withdraw or modify this probation if the
4 department finds after a hearing that the deficiency that required
5 disciplinary action has been remedied or that changed
6 circumstances warrant a modification of the order.

7 (c) If an applicant or a practitioner has engaged in or knowingly
8 cooperated in fraud or material deception to obtain a license to practice,
9 including cheating on the licensing examination, the department may
10 rescind the license if it has been granted, void the examination or other
11 fraudulent or deceptive material, and prohibit the applicant from
12 reapplying for the license for a length of time established by the
13 department.

14 (d) The department may deny licensure to an applicant who has had
15 disciplinary action taken against the applicant or the applicant's license
16 to practice in another state or jurisdiction or who has practiced without
17 a license in violation of the law. A certified copy of the record of
18 disciplinary action is conclusive evidence of the other jurisdiction's
19 disciplinary action.

20 (e) The department may order a practitioner to submit to a
21 reasonable physical or mental examination if the practitioner's physical
22 or mental capacity to practice safely and competently is at issue in a
23 disciplinary proceeding. Failure to comply with a department order to
24 submit to a physical or mental examination makes a practitioner liable
25 to temporary suspension under subsection (j).

26 (f) Except as provided under subsection (g) or (h), a license may not
27 be denied, revoked, or suspended because the applicant or holder has
28 been convicted of an offense. The acts from which the applicant's or
29 holder's conviction resulted may, however, be considered as to whether
30 the applicant or holder should be entrusted to serve the public in a
31 specific capacity.

32 (g) The department may deny, suspend, or revoke a license issued
33 under this chapter if the individual who holds the license is convicted
34 of any of the following:

35 (1) Possession of cocaine ~~or a narcotic drug or methamphetamine~~
36 under IC 35-48-4-6.

37 (2) **Possession of methamphetamine under IC 35-48-4-6.1.**

38 (3) Possession of a controlled substance under IC 35-48-4-7(a).

- 1 ~~(3)~~ **(4)** Fraudulently obtaining a controlled substance under
- 2 IC 35-48-4-7(b).
- 3 ~~(4)~~ **(5)** Manufacture of paraphernalia as a Class D felony under
- 4 IC 35-48-4-8.1(b).
- 5 ~~(5)~~ **(6)** Dealing in paraphernalia as a Class D felony under
- 6 IC 35-48-4-8.5(b).
- 7 ~~(6)~~ **(7)** Possession of paraphernalia as a Class D felony under
- 8 IC 35-48-4-8.3(b).
- 9 ~~(7)~~ **(8)** Possession of marijuana, hash oil, or hashish as a Class D
- 10 felony under IC 35-48-4-11.
- 11 ~~(8)~~ **(9)** Maintaining a common nuisance under IC 35-48-4-13.
- 12 ~~(9)~~ **(10)** An offense relating to registration, labeling, and
- 13 prescription forms under IC 35-48-4-14.
- 14 ~~(10)~~ **(11)** Conspiracy under IC 35-41-5-2 to commit an offense
- 15 listed in clauses (1) through ~~(9)~~: **(10)**.
- 16 ~~(11)~~ **(12)** Attempt under IC 35-41-5-1 to commit an offense listed
- 17 in clauses (1) through (10).
- 18 ~~(12)~~ **(13)** An offense in any other jurisdiction in which the
- 19 elements of the offense for which the conviction was entered are
- 20 substantially similar to the elements of an offense described under
- 21 clauses (1) through ~~(11)~~: **(12)**.
- 22 (h) The department shall deny, revoke, or suspend a license issued
- 23 under this chapter if the individual who holds the license is convicted
- 24 of any of the following:
- 25 (1) Dealing in cocaine **or** a narcotic drug **or** methamphetamine
- 26 under IC 35-48-4-1.
- 27 **(2) Dealing in methamphetamine under IC 35-48-4-1.1.**
- 28 **(3)** Dealing in a schedule I, II, or III controlled substance under
- 29 IC 35-48-4-2.
- 30 ~~(3)~~ **(4)** Dealing in a schedule IV controlled substance under
- 31 IC 35-48-4-3.
- 32 ~~(4)~~ **(5)** Dealing in a schedule V controlled substance under
- 33 IC 35-48-4-4.
- 34 ~~(5)~~ **(6)** Dealing in a substance represented to be a controlled
- 35 substance under IC 35-48-4-4.5.
- 36 ~~(6)~~ **(7)** Knowingly or intentionally manufacturing, advertising,
- 37 distributing, or possessing with intent to manufacture, advertise,
- 38 or distribute a substance represented to be a controlled substance

- 1 under IC 35-48-4-4.6.
- 2 ~~(7)~~ **(8)** Dealing in a counterfeit substance under IC 35-48-4-5.
- 3 ~~(8)~~ **(9)** Dealing in marijuana, hash oil, or hashish under
- 4 IC 35-48-4-10(b).
- 5 ~~(9)~~ **(10)** Conspiracy under IC 35-41-5-2 to commit an offense
- 6 listed in clauses (1) through ~~(8)~~: **(9)**.
- 7 ~~(10)~~ **(11)** Attempt under IC 35-41-5-1 to commit an offense listed
- 8 in clauses (1) through (9).
- 9 ~~(11)~~ **(12)** An offense in any other jurisdiction in which the
- 10 elements of the offense for which the conviction was entered are
- 11 substantially similar to the elements of an offense described under
- 12 clauses (1) through ~~(10)~~: **(11)**.
- 13 ~~(12)~~ **(13)** A violation of any federal or state drug law or rule
- 14 related to wholesale legend drug distributors licensed under
- 15 IC 25-26-14.
- 16 (i) A decision of the department under subsections (b) through (h)
- 17 may be appealed to the commission under IC 4-21.5-3-7.
- 18 (j) The department may temporarily suspend a practitioner's license
- 19 under IC 4-21.5-4 before a final adjudication or during the appeals
- 20 process if the department finds that a practitioner represents a clear and
- 21 immediate danger to the public's health, safety, or property if the
- 22 practitioner is allowed to continue to practice.
- 23 (k) On receipt of a complaint or an information alleging that a
- 24 person licensed under this chapter has engaged in or is engaging in a
- 25 practice that jeopardizes the public health, safety, or welfare, the
- 26 department shall initiate an investigation against the person.
- 27 (l) Any complaint filed with the office of the attorney general
- 28 alleging a violation of this licensing program shall be referred to the
- 29 department for summary review and for its general information and any
- 30 authorized action at the time of the filing.
- 31 (m) The department shall conduct a fact finding investigation as the
- 32 department considers proper in relation to the complaint.
- 33 (n) The department may reinstate a license that has been suspended
- 34 under this section if, after a hearing, the department is satisfied that the
- 35 applicant is able to practice with reasonable skill, safety, and
- 36 competency to the public. As a condition of reinstatement, the
- 37 department may impose disciplinary or corrective measures authorized
- 38 under this chapter.

(o) The department may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

(p) The department shall seek to achieve consistency in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the department's findings or orders.

(q) A practitioner may petition the department to accept the surrender of the practitioner's license instead of having a hearing before the commission. The practitioner may not surrender the practitioner's license without the written approval of the department, and the department may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

(r) A practitioner who has been subjected to disciplinary sanctions may be required by the commission to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. The costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photo duplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.

SECTION 9. IC 25-1-1.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. A board, a commission, or a committee may suspend or revoke a license or certificate issued under this title by the board, the commission, or the committee if the individual who holds the license or certificate is convicted of any of the following:

- (1) Possession of cocaine ~~or a narcotic drug or methamphetamine~~ under IC 35-48-4-6.
- (2) **Possession of methamphetamine under IC 35-48-4-6.1.**

- 1 **(3)** Possession of a controlled substance under IC 35-48-4-7(a).
- 2 ~~(3)~~ **(4)** Fraudulently obtaining a controlled substance under
- 3 IC 35-48-4-7(b).
- 4 ~~(4)~~ **(5)** Manufacture of paraphernalia as a Class D felony under
- 5 IC 35-48-4-8.1(b).
- 6 ~~(5)~~ **(6)** Dealing in paraphernalia as a Class D felony under
- 7 IC 35-48-4-8.5(b).
- 8 ~~(6)~~ **(7)** Possession of paraphernalia as a Class D felony under
- 9 IC 35-48-4-8.3(b).
- 10 ~~(7)~~ **(8)** Possession of marijuana, hash oil, or hashish as a Class D
- 11 felony under IC 35-48-4-11.
- 12 ~~(8)~~ **(9)** Maintaining a common nuisance under IC 35-48-4-13.
- 13 ~~(9)~~ **(10)** An offense relating to registration, labeling, and
- 14 prescription forms under IC 35-48-4-14.
- 15 ~~(10)~~ **(11)** Conspiracy under IC 35-41-5-2 to commit an offense
- 16 listed in subdivisions (1) through ~~(9)~~; **(10)**.
- 17 ~~(11)~~ **(12)** Attempt under IC 35-41-5-1 to commit an offense listed
- 18 in subdivisions (1) through ~~(9)~~; **(10)**.
- 19 ~~(12)~~ **(13)** An offense in any other jurisdiction in which the
- 20 elements of the offense for which the conviction was entered are
- 21 substantially similar to the elements of an offense described under
- 22 subdivisions (1) through ~~(11)~~; **(12)**.
- 23 SECTION 10. IC 25-1-1.1-3 IS AMENDED TO READ AS
- 24 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. A board, a
- 25 commission, or a committee shall revoke or suspend a license or
- 26 certificate issued under this title by the board, the commission, or the
- 27 committee if the individual who holds the license or certificate is
- 28 convicted of any of the following:
- 29 (1) Dealing in or manufacturing cocaine ~~or~~ a narcotic drug ~~or~~
- 30 methamphetamine under IC 35-48-4-1.
- 31 **(2) Dealing in or manufacturing methamphetamine under**
- 32 **IC 35-48-4-1.1.**
- 33 **(3)** Dealing in a schedule I, II, or III controlled substance under
- 34 IC 35-48-4-2.
- 35 ~~(3)~~ **(4)** Dealing in a schedule IV controlled substance under
- 36 IC 35-48-4-3.
- 37 ~~(4)~~ **(5)** Dealing in a schedule V controlled substance under
- 38 IC 35-48-4-4.

- 1 ~~(5)~~ **(6)** Dealing in a substance represented to be a controlled
 2 substance under IC 35-48-4-4.5.
- 3 ~~(6)~~ **(7)** Knowingly or intentionally manufacturing, advertising,
 4 distributing, or possessing with intent to manufacture, advertise,
 5 or distribute a substance represented to be a controlled substance
 6 under IC 35-48-4-4.6.
- 7 ~~(7)~~ **(8)** Dealing in a counterfeit substance under IC 35-48-4-5.
- 8 ~~(8)~~ **(9)** Dealing in marijuana, hash oil, or hashish under
 9 IC 35-48-4-10(b).
- 10 ~~(9)~~ **(10)** Conspiracy under IC 35-41-5-2 to commit an offense
 11 listed in subdivisions (1) through ~~(8)~~: **(9)**.
- 12 ~~(10)~~ **(11)** Attempt under IC 35-41-5-1 to commit an offense listed
 13 in subdivisions (1) through ~~(8)~~: **(9)**.
- 14 ~~(11)~~ **(12)** An offense in any other jurisdiction in which the
 15 elements of the offense for which the conviction was entered are
 16 substantially similar to the elements of an offense described under
 17 subdivisions (1) through ~~(10)~~: **(11)**.
- 18 ~~(12)~~ **(13)** A violation of any federal or state drug law or rule
 19 related to wholesale legend drug distributors licensed under
 20 IC 25-26-14.
- 21 SECTION 11. IC 31-30-1-4 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The juvenile
 23 court does not have jurisdiction over an individual for an alleged
 24 violation of:
- 25 (1) IC 35-42-1-1 (murder);
- 26 (2) IC 35-42-3-2 (kidnapping);
- 27 (3) IC 35-42-4-1 (rape);
- 28 (4) IC 35-42-4-2 (criminal deviate conduct);
- 29 (5) IC 35-42-5-1 (robbery) if:
- 30 (A) the robbery was committed while armed with a deadly
 31 weapon; or
- 32 (B) the robbery results in bodily injury or serious bodily
 33 injury;
- 34 (6) IC 35-42-5-2 (carjacking);
- 35 (7) IC 35-45-9-3 (criminal gang activity);
- 36 (8) IC 35-45-9-4 (criminal gang intimidation);
- 37 (9) IC 35-47-2-1 (carrying a handgun without a license);
- 38 (10) IC 35-47-10 (children and firearms);

1 (11) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or
 2 (12) any offense that may be joined under IC 35-34-1-9(a)(2) with
 3 any crime listed in subdivisions (1) through (11);
 4 if the individual was at least sixteen (16) years of age at the time of the
 5 alleged violation.

6 (b) The juvenile court does not have jurisdiction for an alleged
 7 violation of manufacturing or dealing in cocaine ~~or~~ a narcotic drug ~~or~~
 8 ~~methamphetamine~~ (IC 35-48-4-1), **dealing in methamphetamine (IC**
 9 **35-48-4-1.1)**, dealing in a schedule I, II, or III controlled substance (IC
 10 35-48-4-2), or dealing in a schedule IV controlled substance (IC
 11 35-48-4-3), if:

12 (1) the individual has a prior unrelated conviction under
 13 IC 35-48-4-1, **IC 35-48-4-1.1**, IC 35-48-4-2, or IC 35-48-4-3; or

14 (2) the individual has a prior unrelated juvenile adjudication that,
 15 if committed by an adult, would be a crime under IC 35-48-4-1,
 16 **IC 35-48-4-1.1**, IC 35-48-4-2, or IC 35-48-4-3;

17 and the individual was at least sixteen (16) years of age at the time of
 18 the alleged violation.

19 (c) Once an individual described in subsection (a) ~~or (b)~~ has been
 20 charged with any crime listed in subsection ~~(a)(1) through (a)(15)~~ **(a)**
 21 **or (b)**, the court having adult criminal jurisdiction shall retain
 22 jurisdiction over the case even if the individual pleads guilty to or is
 23 convicted of a lesser included offense. A plea of guilty to or a
 24 conviction of a lesser included offense does not vest jurisdiction in the
 25 juvenile court.

26 SECTION 12. IC 34-24-1-1, AS AMENDED BY P.L.45-2005,
 27 SECTION 1, AS AMENDED BY P.L.160-2005, SECTION 17, AS
 28 AMENDED BY P.L.181-2005, SECTION 4, AND AS AMENDED
 29 BY P.L.212-2005, SECTION 75, IS CORRECTED AND AMENDED
 30 [EFFECTIVE UPON PASSAGE] TO READ AS FOLLOWS
 31 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The following may be
 32 seized:

33 (1) All vehicles (as defined by IC 35-41-1), if they are used or are
 34 intended for use by the person or persons in possession of them to
 35 transport or in any manner to facilitate the transportation of the
 36 following:

37 (A) A controlled substance for the purpose of committing,
 38 attempting to commit, or conspiring to commit any of the

- 1 following:
- 2 (i) Dealing in or manufacturing cocaine ~~or~~ a narcotic drug ~~or~~
- 3 ~~methamphetamine~~ (IC 35-48-4-1).
- 4 (ii) **Dealing in or manufacturing methamphetamine (IC**
- 5 **35-48-4-1.1).**
- 6 (iii) Dealing in a schedule I, II, or III controlled substance
- 7 (IC 35-48-4-2).
- 8 ~~(iii)~~ (iv) Dealing in a schedule IV controlled substance (IC
- 9 35-48-4-3).
- 10 ~~(iv)~~ (v) Dealing in a schedule V controlled substance (IC
- 11 35-48-4-4).
- 12 ~~(v)~~ (vi) Dealing in a counterfeit substance (IC 35-48-4-5).
- 13 ~~(vi)~~ (vii) Possession of cocaine ~~or~~ a narcotic drug ~~or~~
- 14 ~~methamphetamine~~ (IC 35-48-4-6).
- 15 (viii) **Possession of methamphetamine (IC 35-48-4-6.1).**
- 16 ~~(vii)~~ (ix) Dealing in paraphernalia (IC 35-48-4-8.5).
- 17 ~~(viii)~~ (x) Dealing in marijuana, hash oil, or hashish (IC
- 18 35-48-4-10).
- 19 (B) Any stolen (IC 35-43-4-2) or converted property (IC
- 20 35-43-4-3) if the retail or repurchase value of that property is
- 21 one hundred dollars (\$100) or more.
- 22 (C) Any hazardous waste in violation of IC 13-30-6-6.
- 23 (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass
- 24 destruction (as defined in IC 35-41-1-29.4) used to commit,
- 25 used in an attempt to commit, or used in a conspiracy to
- 26 commit an offense under IC 35-47 as part of or in furtherance
- 27 of an act of terrorism (as defined by IC 35-41-1-26.5).
- 28 (2) All money, negotiable instruments, securities, weapons,
- 29 communications devices, or any property used to commit, used in
- 30 an attempt to commit, or used in a conspiracy to commit an
- 31 offense under IC 35-47 as part of or in furtherance of an act of
- 32 terrorism or commonly used as consideration for a violation of
- 33 IC 35-48-4 (other than items subject to forfeiture under
- 34 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
- 35 (A) furnished or intended to be furnished by any person in
- 36 exchange for an act that is in violation of a criminal statute;
- 37 (B) used to facilitate any violation of a criminal statute; or
- 38 (C) traceable as proceeds of the violation of a criminal statute.

- 1 (3) Any portion of real or personal property purchased with
- 2 money that is traceable as a proceed of a violation of a criminal
- 3 statute.
- 4 (4) A vehicle that is used by a person to:
 - 5 (A) commit, attempt to commit, or conspire to commit;
 - 6 (B) facilitate the commission of; or
 - 7 (C) escape from the commission of;
- 8 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
- 9 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
- 10 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
- 11 under IC 35-47 as part of or in furtherance of an act of terrorism.
- 12 (5) Real property owned by a person who uses it to commit any
- 13 of the following as a Class A felony, a Class B felony, or a Class
- 14 C felony:
 - 15 (A) Dealing in or manufacturing cocaine ~~or~~ a narcotic drug ~~or~~
 - 16 ~~methamphetamine~~ (IC 35-48-4-1).
 - 17 **(B) Dealing in or manufacturing methamphetamine (IC**
 - 18 **35-48-4-1.1).**
 - 19 **(C) Dealing in a schedule I, II, or III controlled substance (IC**
 - 20 **35-48-4-2).**
 - 21 ~~(D)~~ **(D)** Dealing in a schedule IV controlled substance (IC
 - 22 35-48-4-3).
 - 23 ~~(E)~~ **(E)** Dealing in marijuana, hash oil, or hashish (IC
 - 24 35-48-4-10).
- 25 (6) Equipment and recordings used by a person to commit fraud
- 26 under ~~IC 35-43-5-4(11)~~ IC 35-43-5-4(10).
- 27 (7) Recordings sold, rented, transported, or possessed by a person
- 28 in violation of IC 24-4-10.
- 29 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as
- 30 defined by IC 35-45-6-1) that is the object of a corrupt business
- 31 influence violation (IC 35-45-6-2).
- 32 (9) Unlawful telecommunications devices (as defined in
- 33 IC 35-45-13-6) and plans, instructions, or publications used to
- 34 commit an offense under IC 35-45-13.
- 35 (10) Any equipment used or intended for use in preparing,
- 36 photographing, recording, videotaping, digitizing, printing,
- 37 copying, or disseminating matter in violation of IC 35-42-4-4.
- 38 (11) Destructive devices used, possessed, transported, or sold in

1 violation of IC 35-47.5.

2 ~~(12) Cigarettes that are sold in violation of IC 24-3-5.2; cigarettes~~
 3 ~~that a person attempts to sell in violation of IC 24-3-5.2; and~~
 4 ~~other personal property owned and used by a person to facilitate~~
 5 ~~a violation of IC 24-3-5.2.~~

6 ~~(13)~~ (12) Tobacco products that are sold in violation of IC 24-3-5,
 7 tobacco products that a person attempts to sell in violation of
 8 IC 24-3-5, and other personal property owned and used by a
 9 person to facilitate a violation of IC 24-3-5.

10 ~~(14)~~ (13) Property used by a person to commit counterfeiting or
 11 forgery in violation of IC 35-43-5-2.

12 ~~(15)~~ (14) After December 31, 2005, if a person is convicted of an
 13 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
 14 following real or personal property:

15 (A) Property used or intended to be used to commit, facilitate,
 16 or promote the commission of the offense.

17 (B) Property constituting, derived from, or traceable to the
 18 gross proceeds that the person obtained directly or indirectly
 19 as a result of the offense.

20 (b) A vehicle used by any person as a common or contract carrier in
 21 the transaction of business as a common or contract carrier is not
 22 subject to seizure under this section, unless it can be proven by a
 23 preponderance of the evidence that the owner of the vehicle knowingly
 24 permitted the vehicle to be used to engage in conduct that subjects it to
 25 seizure under subsection (a).

26 (c) Equipment under subsection (a)(10) may not be seized unless it
 27 can be proven by a preponderance of the evidence that the owner of the
 28 equipment knowingly permitted the equipment to be used to engage in
 29 conduct that subjects it to seizure under subsection (a)(10).

30 (d) Money, negotiable instruments, securities, weapons,
 31 communications devices, or any property commonly used as
 32 consideration for a violation of IC 35-48-4 found near or on a person
 33 who is committing, attempting to commit, or conspiring to commit any
 34 of the following offenses shall be admitted into evidence in an action
 35 under this chapter as prima facie evidence that the money, negotiable
 36 instrument, security, or other thing of value is property that has been
 37 used or was to have been used to facilitate the violation of a criminal
 38 statute or is the proceeds of the violation of a criminal statute:

- 1 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine ~~or~~ a
- 2 narcotic drug ~~or methamphetamine~~).
- 3 (2) **IC 35-48-4-1.1 (dealing in or manufacturing**
- 4 **methamphetamine).**
- 5 (3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
- 6 substance).
- 7 ~~(3)~~ (4) IC 35-48-4-3 (dealing in a schedule IV controlled
- 8 substance).
- 9 ~~(4)~~ (5) IC 35-48-4-4 (dealing in a schedule V controlled
- 10 substance) as a Class B felony.
- 11 ~~(5)~~ (6) IC 35-48-4-6 (possession of cocaine ~~or~~ a narcotic drug ~~or~~
- 12 ~~methamphetamine~~) as a Class A felony, Class B felony, or Class
- 13 C felony.
- 14 (7) **IC 35-48-4-6.1 (possession of methamphetamine) as a Class**
- 15 **A felony, Class B felony, or Class C felony.**
- 16 ~~(6)~~ (8) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish)
- 17 as a Class C felony."
- 18 Page 3, between lines 28 and 29, begin a new paragraph and insert:
- 19 "SECTION 14. IC 35-42-1-1 IS AMENDED TO READ AS
- 20 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. A person who:
- 21 (1) knowingly or intentionally kills another human being;
- 22 (2) kills another human being while committing or attempting to
- 23 commit arson, burglary, child molesting, consumer product
- 24 tampering, criminal deviate conduct, kidnapping, rape, robbery,
- 25 or carjacking;
- 26 (3) kills another human being while committing or attempting to
- 27 commit:
- 28 (A) dealing in or manufacturing cocaine ~~or~~ a narcotic drug ~~or~~
- 29 ~~methamphetamine~~ (IC 35-48-4-1);
- 30 (B) **dealing in or manufacturing methamphetamine (IC**
- 31 **35-48-4-1.1);**
- 32 (C) dealing in a schedule I, II, or III controlled substance (IC
- 33 35-48-4-2);
- 34 ~~(C)~~ (D) dealing in a schedule IV controlled substance (IC
- 35 35-48-4-3); or
- 36 ~~(D)~~ (E) dealing in a schedule V controlled substance; or
- 37 (4) knowingly or intentionally kills a fetus that has attained
- 38 viability (as defined in IC 16-18-2-365);

1 commits murder, a felony.

2 SECTION 15. IC 35-45-6-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this
4 chapter:

5 "Documentary material" means any document, drawing, photograph,
6 recording, or other tangible item containing compiled data from which
7 information can be either obtained or translated into a usable form.

8 "Enterprise" means:

- 9 (1) a sole proprietorship, corporation, limited liability company,
10 partnership, business trust, or governmental entity; or
- 11 (2) a union, an association, or a group, whether a legal entity or
12 merely associated in fact.

13 "Pattern of racketeering activity" means engaging in at least two (2)
14 incidents of racketeering activity that have the same or similar intent,
15 result, accomplice, victim, or method of commission, or that are
16 otherwise interrelated by distinguishing characteristics that are not
17 isolated incidents. However, the incidents are a pattern of racketeering
18 activity only if at least one (1) of the incidents occurred after August
19 31, 1980, and if the last of the incidents occurred within five (5) years
20 after a prior incident of racketeering activity.

21 "Racketeering activity" means to commit, to attempt to commit, to
22 conspire to commit a violation of, or aiding and abetting in a violation
23 of any of the following:

- 24 (1) A provision of IC 23-2-1, or of a rule or order issued under
25 IC 23-2-1.
- 26 (2) A violation of IC 35-45-9.
- 27 (3) A violation of IC 35-47.
- 28 (4) A violation of IC 35-49-3.
- 29 (5) Murder (IC 35-42-1-1).
- 30 (6) Battery as a Class C felony (IC 35-42-2-1).
- 31 (7) Kidnapping (IC 35-42-3-2).
- 32 (8) Child exploitation (IC 35-42-4-4).
- 33 (9) Robbery (IC 35-42-5-1).
- 34 (10) Carjacking (IC 35-42-5-2).
- 35 (11) Arson (IC 35-43-1-1).
- 36 (12) Burglary (IC 35-43-2-1).
- 37 (13) Theft (IC 35-43-4-2).
- 38 (14) Receiving stolen property (IC 35-43-4-2).

- 1 (15) Forgery (IC 35-43-5-2).
- 2 (16) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(9)).
- 3 (17) Bribery (IC 35-44-1-1).
- 4 (18) Official misconduct (IC 35-44-1-2).
- 5 (19) Conflict of interest (IC 35-44-1-3).
- 6 (20) Perjury (IC 35-44-2-1).
- 7 (21) Obstruction of justice (IC 35-44-3-4).
- 8 (22) Intimidation (IC 35-45-2-1).
- 9 (23) Promoting prostitution (IC 35-45-4-4).
- 10 (24) Promoting professional gambling (IC 35-45-5-4).
- 11 (25) Dealing in or manufacturing cocaine ~~or~~ a narcotic drug ~~or~~
- 12 ~~methamphetamine~~ (IC 35-48-4-1).
- 13 **(26) Dealing in or manufacturing methamphetamine (IC**
- 14 **35-48-4-1.1).**
- 15 **(27)** Dealing in a schedule I, II, or III controlled substance (IC
- 16 35-48-4-2).
- 17 ~~(27)~~ **(28)** Dealing in a schedule IV controlled substance (IC
- 18 35-48-4-3).
- 19 ~~(28)~~ **(29)** Dealing in a schedule V controlled substance (IC
- 20 35-48-4-4).
- 21 ~~(29)~~ **(30)** Dealing in marijuana, hash oil, or hashish (IC
- 22 35-48-4-10).
- 23 ~~(30)~~ **(31)** Money laundering (IC 35-45-15-5).
- 24 ~~(31)~~ **(32)** A violation of IC 35-47.5-5.
- 25 SECTION 16. IC 35-46-1-8, AS AMENDED BY P.L.2-2005,
- 26 SECTION 126, IS AMENDED TO READ AS FOLLOWS
- 27 [EFFECTIVE JULY 1, 2006]: **Sec. 8.** (a) A person at least eighteen
- 28 (18) years of age who knowingly or intentionally encourages, aids,
- 29 induces, or causes a person less than eighteen (18) years of age to
- 30 commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2)
- 31 commits contributing to delinquency, a Class A misdemeanor.
- 32 (b) However, the offense described in subsection (a) is a Class C
- 33 felony:
- 34 (1) if:
- 35 (A) the person committing the offense is at least twenty-one
- 36 (21) years of age and knowingly or intentionally furnishes:
- 37 (i) an alcoholic beverage to a person less than eighteen (18)
- 38 years of age in violation of IC 7.1-5-7-8 when the person

- 1 committing the offense knew or reasonably should have
- 2 known that the person furnished the alcoholic beverage was
- 3 less than eighteen (18) years of age; or
- 4 (ii) a controlled substance (as defined in IC 35-48-1-9) or a
- 5 drug (as defined in IC 9-13-2-49.1) in violation of Indiana
- 6 law; and
- 7 (B) the consumption, ingestion, or use of the alcoholic
- 8 beverage, controlled substance, or drug is the proximate cause
- 9 of the death of any person; or
- 10 (2) if the person committing the offense knowingly or
- 11 intentionally encourages, aids, induces, or causes a person less
- 12 than eighteen (18) years of age to commit an act that would be a
- 13 felony if committed by an adult under any of the following:
- 14 (A) IC 35-48-4-1.
- 15 (B) **IC 35-48-4-1.1**
- 16 (C) IC 35-48-4-2.
- 17 ~~(C)~~ (D) IC 35-48-4-3.
- 18 ~~(D)~~ (E) IC 35-48-4-4.
- 19 ~~(E)~~ (F) IC 35-48-4-4.5.
- 20 ~~(F)~~ (G) IC 35-48-4-4.6.
- 21 ~~(G)~~ (H) IC 35-48-4-5.

22 SECTION 17. IC 35-47-4-5 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this
 24 section, "serious violent felon" means a person who has been convicted
 25 of:

- 26 (1) committing a serious violent felony in:
 - 27 (A) Indiana; or
 - 28 (B) any other jurisdiction in which the elements of the crime
 - 29 for which the conviction was entered are substantially similar
 - 30 to the elements of a serious violent felony; or
- 31 (2) attempting to commit or conspiring to commit a serious violent
 32 felony in:
 - 33 (A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2;
 - 34 or
 - 35 (B) any other jurisdiction in which the elements of the crime
 - 36 for which the conviction was entered are substantially similar
 - 37 to the elements of attempting to commit or conspiring to
 - 38 commit a serious violent felony.

- 1 (b) As used in this section, "serious violent felony" means:
- 2 (1) murder (IC 35-42-1-1);
- 3 (2) voluntary manslaughter (IC 35-42-1-3);
- 4 (3) reckless homicide not committed by means of a vehicle (IC
- 5 35-42-1-5);
- 6 (4) battery as a:
- 7 (A) Class A felony (IC 35-42-2-1(a)(5));
- 8 (B) Class B felony (IC 35-42-2-1(a)(4)); or
- 9 (C) Class C felony (IC 35-42-2-1(a)(3));
- 10 (5) aggravated battery (IC 35-42-2-1.5);
- 11 (6) kidnapping (IC 35-42-3-2);
- 12 (7) criminal confinement (IC 35-42-3-3);
- 13 (8) rape (IC 35-42-4-1);
- 14 (9) criminal deviate conduct (IC 35-42-4-2);
- 15 (10) child molesting (IC 35-42-4-3);
- 16 (11) sexual battery as a Class C felony (IC 35-42-4-8);
- 17 (12) robbery (IC 35-42-5-1);
- 18 (13) carjacking (IC 35-42-5-2);
- 19 (14) arson as a Class A felony or Class B felony (IC
- 20 35-43-1-1(a));
- 21 (15) burglary as a Class A felony or Class B felony (IC
- 22 35-43-2-1);
- 23 (16) assisting a criminal as a Class C felony (IC 35-44-3-2);
- 24 (17) resisting law enforcement as a Class B felony or Class C
- 25 felony (IC 35-44-3-3);
- 26 (18) escape as a Class B felony or Class C felony (IC 35-44-3-5);
- 27 (19) trafficking with an inmate as a Class C felony (IC 35-44-3-9);
- 28 (20) criminal gang intimidation (IC 35-45-9-4);
- 29 (21) stalking as a Class B felony or Class C felony (IC
- 30 35-45-10-5);
- 31 (22) incest (IC 35-46-1-3);
- 32 (23) dealing in or manufacturing cocaine ~~or~~ a narcotic drug ~~or~~
- 33 ~~methamphetamine~~ (IC 35-48-4-1);
- 34 **(24) dealing in or manufacturing methamphetamine (IC**
- 35 **35-48-4-1.1);**
- 36 **(25) dealing in a schedule I, II, or III controlled substance (IC**
- 37 **35-48-4-2);**
- 38 ~~(25)~~ **(26) dealing in a schedule IV controlled substance (IC**

1 35-48-4-3); or
 2 ~~(26)~~ (27) dealing in a schedule V controlled substance (IC
 3 35-48-4-4).

4 (c) A serious violent felon who knowingly or intentionally possesses
 5 a firearm commits unlawful possession of a firearm by a serious violent
 6 felon, a Class B felony.

7 SECTION 18. IC 35-48-4-1 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) A person who:

9 (1) knowingly or intentionally:

10 (A) manufactures;

11 (B) finances the manufacture of;

12 (C) delivers; or

13 (D) finances the delivery of;

14 cocaine ~~or~~ a narcotic drug, ~~or methamphetamine~~, pure or
 15 adulterated, classified in schedule I or II; or

16 (2) possesses, with intent to:

17 (A) manufacture;

18 (B) finance the manufacture of;

19 (C) deliver; or

20 (D) finance the delivery of;

21 cocaine ~~or~~ a narcotic drug, ~~or methamphetamine~~, pure or
 22 adulterated, classified in schedule I or II;

23 commits dealing in cocaine ~~or~~ a narcotic drug, ~~or methamphetamine~~,
 24 a Class B felony, except as provided in subsection (b).

25 (b) The offense is a Class A felony if:

26 (1) the amount of the drug involved weighs three (3) grams or
 27 more;

28 (2) the person:

29 (A) delivered; or

30 (B) financed the delivery of;

31 the drug to a person under eighteen (18) years of age at least three

32 (3) years junior to the person; or

33 (3) the person manufactured, delivered or financed the delivery of
 34 the drug:

35 (A) on a school bus; or

36 (B) in, on, or within one thousand (1,000) feet of:

37 (i) school property;

38 (ii) a public park;

- 1 (iii) a family housing complex; or
- 2 (iv) a youth program center.

3 SECTION 19. IC 35-48-4-1.1 IS ADDED TO THE INDIANA
 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2006]: **Sec. 1.1. (a) A person who:**

6 **(1) knowingly or intentionally:**

- 7 **(A) manufactures;**
- 8 **(B) finances the manufacture of;**
- 9 **(C) delivers; or**
- 10 **(D) finances the delivery of;**
- 11 **methamphetamine, pure or adulterated; or**

12 **(2) possesses, with intent to:**

- 13 **(A) manufacture;**
- 14 **(B) finance the manufacture of;**
- 15 **(C) deliver; or**
- 16 **(D) finance the delivery of;**
- 17 **methamphetamine, pure or adulterated;**

18 **commits dealing in methamphetamine, a Class B felony, except as**
 19 **provided in subsection (b).**

20 **(b) The offense is a Class A felony if:**

21 **(1) the amount of the drug involved weighs three (3) grams or**
 22 **more;**

23 **(2) the person:**

- 24 **(A) delivered; or**
- 25 **(B) financed the delivery of;**
- 26 **the drug to a person under eighteen (18) years of age at least**
- 27 **three (3) years junior to the person; or**

28 **(3) the person manufactured, delivered, or financed the**
 29 **delivery of the drug:**

- 30 **(A) on a school bus; or**
- 31 **(B) in, on, or within one thousand (1,000) feet of:**
- 32 **(i) school property;**
- 33 **(ii) a public park;**
- 34 **(iii) a family housing complex; or**
- 35 **(iv) a youth program center.**

36 SECTION 20. IC 35-48-4-6 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6. (a) A person who,**
 38 **without a valid prescription or order of a practitioner acting in the**

course of the practitioner's professional practice, knowingly or intentionally possesses cocaine (pure or adulterated) ~~or~~ a narcotic drug (pure or adulterated) classified in schedule I or II, ~~or methamphetamine (pure or adulterated)~~ commits possession of cocaine ~~or~~ a narcotic drug, ~~or methamphetamine~~, a Class D felony, except as provided in subsection (b).

(b) The offense is:

(1) a Class C felony if:

(A) the amount of the drug involved (pure or adulterated) weighs three (3) grams or more; or

(B) the person was also in possession of a firearm (as defined in IC 35-47-1-5);

(2) a Class B felony if the person in possession of the cocaine ~~or~~ narcotic drug ~~or methamphetamine~~ possesses less than three (3) grams of pure or adulterated cocaine ~~or~~ a narcotic drug ~~or methamphetamine~~:

(A) on a school bus; or

(B) in, on, or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center; and

(3) a Class A felony if the person possesses the cocaine ~~or~~ narcotic drug ~~or methamphetamine~~ in an amount (pure or adulterated) weighing at least three (3) grams:

(A) on a school bus; or

(B) in, on, or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center.

SECTION 21. IC 35-48-4-6.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6.1. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses methamphetamine (pure or adulterated) commits possession of methamphetamine, a Class D felony, except as**

1 provided in subsection (b).
 2 (b) The offense is:
 3 (1) a Class C felony if:
 4 (A) the amount of the drug involved (pure or adulterated)
 5 weighs three (3) grams or more; or
 6 (B) the person was also in possession of a firearm (as
 7 defined in IC 35-47-1-5);
 8 (2) a Class B felony if the person in possession of the
 9 methamphetamine possesses less than three (3) grams of pure
 10 or adulterated methamphetamine:
 11 (A) on a school bus; or
 12 (B) in, on, or within one thousand (1,000) feet of:
 13 (i) school property;
 14 (ii) a public park;
 15 (iii) a family housing complex; or
 16 (iv) a youth program center; and
 17 (3) a Class A felony if the person possesses the
 18 methamphetamine in an amount (pure or adulterated)
 19 weighing at least three (3) grams:
 20 (A) on a school bus; or
 21 (B) in, on, or within one thousand (1,000) feet of:
 22 (i) school property;
 23 (ii) a public park;
 24 (iii) a family housing complex; or
 25 (iv) a youth program center.".
 26 Page 4, delete line 32.
 27 Page 6, line 11, strike "methamphetamine,".
 28 Page 6, line 12, strike "schedule II".
 29 Page 6, line 12, after "substance" insert ",".
 30 Page 6, line 12, strike "under IC 35-48-2-6;".
 31 Page 6, line 14, strike "methamphetamine,".
 32 Page 6, line 14, strike "schedule II".
 33 Page 6, line 15, strike "under IC 35-48-2-6".
 34 Page 6, strike line 24.
 35 Page 6, line 24, after "phentermine" insert "**a controlled substance**".
 36 Page 9, between lines 33 and 34, begin a new paragraph and insert:
 37 "SECTION 24. IC 35-50-2-2, AS AMENDED BY P.L.213-2005,
 38 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

- 1 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
- 2 injury;
- 3 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
- 4 or with a deadly weapon;
- 5 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
- 6 weapon;
- 7 (M) escape (IC 35-44-3-5) with a deadly weapon;
- 8 (N) rioting (IC 35-45-1-2) with a deadly weapon;
- 9 (O) dealing in cocaine **or** a narcotic drug **or** ~~methamphetamine~~
- 10 (IC 35-48-4-1) if the court finds the person possessed a firearm
- 11 (as defined in IC 35-47-1-5) at the time of the offense, or the
- 12 person delivered or intended to deliver to a person under
- 13 eighteen (18) years of age at least three (3) years junior to the
- 14 person and was on a school bus or within one thousand (1,000)
- 15 feet of:
- 16 (i) school property;
- 17 (ii) a public park;
- 18 (iii) a family housing complex; or
- 19 (iv) a youth program center;
- 20 **(P) dealing in methamphetamine (IC 35-48-4-1.1) if the**
- 21 **court finds the person possessed a firearm (as defined in**
- 22 **IC 35-47-1-5) at the time of the offense, or the person**
- 23 **delivered or intended to deliver the methamphetamine**
- 24 **pure or adulterated to a person under eighteen (18) years**
- 25 **of age at least three (3) years junior to the person and was**
- 26 **on a school bus or within one thousand (1,000) feet of:**
- 27 **(i) school property;**
- 28 **(ii) a public park;**
- 29 **(iii) a family housing complex; or**
- 30 **(iv) a youth program center;**
- 31 **(Q) dealing in a schedule I, II, or III controlled substance (IC**
- 32 **35-48-4-2) if the court finds the person possessed a firearm (as**
- 33 **defined in IC 35-47-1-5) at the time of the offense, or the**
- 34 **person delivered or intended to deliver to a person under**
- 35 **eighteen (18) years of age at least three (3) years junior to the**
- 36 **person and was on a school bus or within one thousand (1,000)**
- 37 **feet of:**
- 38 **(i) school property;**

- 1 (ii) a public park;
- 2 (iii) a family housing complex; or
- 3 (iv) a youth program center;
- 4 ~~(Q)~~ **(R)** an offense under IC 9-30-5 (operating a vehicle while
- 5 intoxicated) and the person who committed the offense has
- 6 accumulated at least two (2) prior unrelated convictions under
- 7 IC 9-30-5;
- 8 ~~(R)~~ **(S)** an offense under IC 9-30-5-5(b) (operating a vehicle
- 9 while intoxicated causing death); or
- 10 ~~(S)~~ **(T)** aggravated battery (IC 35-42-2-1.5).

11 (c) Except as provided in subsection (e), whenever the court
 12 suspends a sentence for a felony, it shall place the person on probation
 13 under IC 35-38-2 for a fixed period to end not later than the date that
 14 the maximum sentence that may be imposed for the felony will expire.

15 (d) The minimum sentence for a person convicted of voluntary
 16 manslaughter may not be suspended unless the court finds at the
 17 sentencing hearing that the crime was not committed by means of a
 18 deadly weapon.

19 (e) Whenever the court suspends that part of an offender's (as
 20 defined in IC 5-2-12-4) sentence that is suspendible under subsection
 21 (b), the court shall place the offender on probation under IC 35-38-2 for
 22 not more than ten (10) years.

23 (f) An additional term of imprisonment imposed under
 24 IC 35-50-2-11 may not be suspended.

25 (g) A term of imprisonment imposed under IC 35-47-10-6 or
 26 IC 35-47-10-7 may not be suspended if the commission of the offense
 27 was knowing or intentional.

28 (h) A term of imprisonment imposed for an offense under
 29 IC 35-48-4-6(b)(1)(B) **or IC 35-48-4-6.1(b)(1)(B)** may not be
 30 suspended."

31 Page 9, line 34, after "2006]" insert "**IC 35-48-4-1.1 and**
 32 **IC 35-48-4-6.1, both as added by this act, and IC 35-48-4-1,**
 33 **IC 35-48-4-6,**".

34 Page 9, line 34, after "IC 35-48-4-14.5" insert ",".

35 Page 9, line 35, delete "both" and insert "**all**".

36 Page 9, after line 36, begin a new paragraph and insert:

37 "**SECTION 26. An emergency is declared for this act.**".

38 Renumber all SECTIONS consecutively.

(Reference is to SB 193 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

Long

Chairperson